

REMARKS

By the above actions, claims 1, 9-11 and 16 have been amended. In view of these actions and the following remarks, reconsideration of this application is now requested.

The Examiner's indication of allowable subject matter with respect to claims 9, 10, and 16 has been noted with appreciation. Accordingly, these claims have been placed in allowable independent form.

Claims 1-3, 7 and 11-14 were rejected by the Examiner under 35 USC § 102 as being anticipated by the Losey et al. patent while claims 4-6, 8 and 15 were rejected under § 103 as being unpatentable over this reference. However, to the extent these rejections may relate to the claims as now presented, they should be withdrawn for the following reasons.

In particular, contrary to the Examiner's contention, Losey does not disclose checking a monitoring area that is either outside of the vehicle or inside of the vehicle, but rather monitors "the region where the window meets the window frame" (i.e., in the path of the movable part), either by optical or capacitive sensors or by monitor the effect of contact with an obstacle on motor performance. Such a monitoring region is neither an area inside (within the interior space) nor outside of the vehicle (external to the vehicle).

On the other hand, as is readily apparent from Figs. 1 and 3 of the present application, the monitoring area in accordance with the present invention is located "outside of the path of the movable part." This language has been added to independent claims 1 and 11 in order to make it clear that the present invention goes beyond the prior art concept of simply monitoring the path of movement of the movable part. This difference is significant. For example, the Examiner has recognized the patentability of applicant's invention being able to *also* be used as a vehicle parking assistant in his allowance of claim 10. However, without being able to monitor an area outside of the path of the movable part, in this case outside of the motor vehicle, use as a parking assistant would not be possible. Put another way, by monitoring an area that is not limited to the path of the movable part, functions can be obtained in addition to that of pinch protection without the cost of additional systems. Thus, it is submitted that the underlying basis for what the Examiner has already acknowledged to be patentable subject matter should also be found to be patentable subject matter given the fact that nothing in the disclosure of the Losey et al. patent would even remotely suggest such a modification to their system.

Accordingly, in the absence of new and more relevant prior art being discovered, all of the claims now presented should be found to be patentable and this application approved for issuance as a patent.

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise, which could be eliminated through discussions with applicant's representative, then the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

Respectfully submitted,



David S. Safran
Registration No. 27,997

NIXON PEABODY LLP
Suite 900
401 9th Street, N.W.
Washington, DC 20004-2128

Direct Telephone: 703-827-8094

W643357.1